

117TH CONGRESS
1ST SESSION

S. 1924

To direct the President to enforce the intellectual property provisions of the Economic and Trade Agreement Between the Government of the United States of America and the Government of China, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

Mr. DAINES (for himself and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To direct the President to enforce the intellectual property provisions of the Economic and Trade Agreement Between the Government of the United States of America and the Government of China, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting IP Act of
5 2021”.

6 **SEC. 2. AGREEMENT DEFINED.**

7 In this Act, the term “Agreement” means the Eco-
8 nomic and Trade Agreement Between the Government of

1 the United States of America and the Government of
2 China, dated January 15, 2020.

3 **SEC. 3. SENSE OF CONGRESS.**

4 It is the sense of Congress that—

5 (1) the Agreement includes significant man-
6 dates for the People’s Republic of China related to
7 its domestic intellectual property regime, including
8 with respect to copyrights, trademarks, trade se-
9 crets, and patents;

10 (2) the changes included in the Agreement, if
11 implemented effectively, should improve the domestic
12 intellectual property framework of the People’s Re-
13 public of China, which has historically proven to
14 harm the innovation and creative communities in the
15 United States;

16 (3) despite commitments made by the Govern-
17 ment of the People’s Republic of China under the
18 Agreement, ongoing market access barriers, uneven
19 enforcement, measures requiring forced technology
20 transfer, and serious deficiencies in the rule of law
21 continue to make the business environment in the
22 People’s Republic of China highly challenging for
23 rights holders in the United States;

24 (4) as reflected in the 2021 report by the
25 United States Trade Representative required under

1 section 182(h) of the Trade Act of 1974 (19 U.S.C.
2 2242(h)) (commonly referred to as the “Special 301
3 Report”), the People’s Republic of China has con-
4 sistently been listed in that annual report since 1989
5 as a trading partner of the United States that “fails
6 to provide adequate and effective IP protection and
7 enforcement for U.S. inventors, creators, brands,
8 manufacturers, and service providers, which, in turn,
9 harm American workers”; and

10 (5) Congress encourages the United States
11 Trade Representative, the Attorney General, the
12 Secretary of State, the Secretary of Homeland Secu-
13 rity, the Secretary of Commerce, and the Director of
14 the United States Patent and Trademark Office—

15 (A) to use all available tools to ensure that
16 the People’s Republic of China fully implements
17 its commitments under the Agreement; and

18 (B) to actively consider additional means
19 to require the People’s Republic of China to ad-
20 dress unfair market access barriers, forced
21 technology transfer requirements, and broader
22 intellectual property theft concerns, including
23 through future trade agreements and working
24 with partners in multilateral organizations,

1 such as the Group of 7 (G7), the Group of 20
2 (G20), and the World Trade Organization.

3 **SEC. 4. ENFORCEMENT OF INTELLECTUAL PROPERTY PRO-**
4 **VISIONS OF ECONOMIC AND TRADE AGREE-**
5 **MENT BETWEEN THE GOVERNMENT OF THE**
6 **UNITED STATES OF AMERICA AND THE GOV-**
7 **ERNMENT OF CHINA.**

8 The President, acting through the United States
9 Trade Representative, shall coordinate with the heads of
10 such Federal agencies as the President considers appro-
11 priate to enforce the actions related to intellectual prop-
12 erty laid out in the Agreement including—

13 (1) the civil, administrative, and criminal proce-
14 dures and deterrent-level civil and criminal penalties
15 provided in the Agreement; and

16 (2) by using the full enforcement authority of
17 the President, including any enforcement authority
18 in connection with the identification and reporting
19 process under section 182 of the Trade Act of 1974
20 (19 U.S.C. 2242).

21 **SEC. 5. REPORT ON STATUS OF IMPLEMENTATION OF CER-**
22 **TAIN OBLIGATIONS.**

23 (a) IN GENERAL.—Not later than 180 days after the
24 date of the enactment of this Act, and every 180 days
25 thereafter, the United States Trade Representative shall

1 submit to the appropriate committees of Congress a report
2 on the status of the implementation by the People's Re-
3 public of China of its obligations under Chapter 1 of the
4 Agreement.

5 (b) INFORMATION IN REPORT.—Each report required
6 by subsection (a) shall contain information sufficient to
7 enable the appropriate committees of Congress to assess
8 the extent of the compliance by the People's Republic of
9 China with the Agreement, including appropriate quan-
10 titative metrics.

11 (c) APPROPRIATE COMMITTEES OF CONGRESS DE-
12 FINED.—In this section, the term “appropriate commit-
13 tees of Congress” means the Committee on Finance of the
14 Senate and the Committee on Ways and Means of the
15 House of Representatives.

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